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6 **BEFORE THE**
7 **CALIFORNIA BOARD OF ACCOUNTANCY**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. AC-2012-48

11 **DREW WESLEY EVANS**
12 19224 Staffordshire Drive
13 South Bend, IN 46637

DEFAULT DECISION AND ORDER

14 Certified Public Accountant Certificate No. 92055

[Gov. Code, §11520]

15 Respondent.

16 **FINDINGS OF FACT**

17 1. On or about July 11, 2012, Complainant Patti Bowers, in her official capacity as the
18 Executive Officer of the California Board of Accountancy, filed Accusation No. AC-2012-48
19 against Drew Wesley Evans (Respondent) before the California Board of Accountancy.
20 (Accusation attached as Exhibit A.)

21 2. On or about April 15, 2005, the California Board of Accountancy (Board) issued
22 Certified Public Accountant Certificate No. 92055 to Respondent. The Certified Public
23 Accountant Certificate expired on October 31, 2008, and has not been renewed. The Board has
24 jurisdiction to adjudicate this case per Business & Professions Code section 5109.

25 3. On or about July 17, 2012, Respondent was served by Certified Mail and United
26 States First Class mail with copies of the Accusation No. AC-2012-48, Statement to Respondent,
27 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections
28 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to California

1 Code of Regulations, title 16, section 3, is required to be reported and maintained with the Board.
2 Respondent's address of record was and is: 19224 Staffordshire Drive, South Bend, IN 46637.

3 4. Service of the Accusation was effective as a matter of law under the provisions of
4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
5 124.

6 5. On or about August 3, 2012, the Certified Mail and United States First Class mailings
7 of the aforementioned documents were returned by the U.S. Postal Service marked "Addressee
8 Unknown." The address on the documents was the same as the address on file with the Board.
9 Respondent failed to maintain an updated address with the Board and the Board has made
10 attempts to serve the Respondent at the address on file. Respondent has not made himself
11 available for service and therefore, has not availed himself of his right to file a notice of defense
12 and appear at hearing.

13 6. Government Code section 11506 states, in pertinent part:

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts
16 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
18 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
19 AC-2012-48.

20 8. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear at the
22 hearing, the agency may take action based upon the respondent's express admissions
23 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

24 9. Pursuant to its authority under Government Code section 11520, the California Board
25 of Accountancy finds that Respondent is in default. The Board will take action without further
26 hearing and, based on the relevant evidence contained in the Default Decision Investigatory
27 Evidence Packet in this matter, as well as taking official notice of all the investigatory reports,
28 exhibits and statements contained therein on file at the Board offices regarding the allegations

1 contained in Accusation No. AC-2012-48, finds that the charges and allegations in Accusation
2 No. AC-2012-48, are separately and severally, are true and correct by clear and convincing
3 evidence.

4 10. Business & Professions Code section 5109 provides that "the expiration, cancellation,
5 forfeiture, or suspension of a license, practice privilege, or other authority to practice public
6 accountancy by operation of law or by order or decision of the board or a court of law, or the
7 voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to
8 commence or proceed with any investigation of or action or disciplinary proceeding against the
9 licensee, or to render a decision suspending or revoking the license."

10 11. Taking official notice of its own internal records, pursuant to Business and
11 Professions Code section 5107, it is hereby determined that the reasonable costs for investigation
12 and enforcement is \$4,843.54 as of August 21, 2012.

13 DETERMINATION OF ISSUES

14 1. Based on the foregoing findings of fact, Respondent Drew Wesley Evans has
15 subjected his Certified Public Accountant Certificate No. 92055 to discipline.

16 2. The agency has jurisdiction to adjudicate this case by default.

17 3. The Board is authorized to revoke Respondent's Certified Public Accountant
18 Certificate based upon the following violations alleged in the Accusation which are supported by
19 the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

20 a. Violation of Business & Professions Code section 5100(a) by Respondent's
21 conviction for violation of Penal Code section 504 (embezzlement), a felony, and violation of
22 Health & Safety Code section 11550(a) (being under the influence of Methamphetamine), a
23 misdemeanor.

24 b. Violation of Business & Professions Code section 5100(i) and (k) by engaging in
25 acts of fiscal dishonesty, embezzlement, theft, misappropriation of funds or property, or other
26 valuable consideration by fraudulent means in the course of his duties as an accountant.

27 c. Violation of Business & Professions Code section 5100(g) by Respondent's violation
28 of Business & Professions Code section 5063(a), and sections 3 and 52, title 16, California Code

1 of Regulations, by failing to report to the Board regarding the aforesaid criminal convictions
2 within 30 days or at all, respond to a Board inquiry, and willfully failing to notify the Board of his
3 change of address within 30 days of the change.

4 ORDER

5 IT IS SO ORDERED that Certified Public Accountant Certificate No. 92055, heretofore
6 issued to Respondent Drew Wesley Evans, is revoked.

7 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
8 written motion requesting that the Decision be vacated and stating the grounds relied on within
9 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
10 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

11 This Decision shall become effective on October 27, 2012.

12 It is so ORDERED September 27, 2012

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15 FOR THE CALIFORNIA BOARD OF
16 ACCOUNTANCY

17 Attachment:
18 Exhibit A: Accusation
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Exhibit A

Accusation

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2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 STERLING A. SMITH
Deputy Attorney General
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Sacramento, CA 94244-2550
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Facsimile: (916) 327-8643

7 *Attorneys for Complainant*

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9 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC-2012-48

13 **DREW W. EVANS**
19224 Staffordshire Drive
14 South Bend, Indiana 46637

ACCUSATION

15 Certified Public Accountant Certificate No. CPA 92055

16 Respondent.

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19 . Complainant alleges:

20 **PARTIES**

21 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as
22 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

23 2. On or about April 15, 2005, the California Board of Accountancy issued Certified
24 Public Accountant Certificate Number CPA 92055 to Drew W. Evans (Respondent). The
25 Certified Public Accountant Certificate expired on October 31, 2008, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the California Board of Accountancy (CBA), Department of Consumer Affairs. All references to "Code" mean the California Business & Professions Code unless otherwise indicated.

4. Code section 5100 provides, in pertinent part, that:

After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

...

(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

...

(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

(k) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

...".

5. Code section 5063 provides, in pertinent part that:

"(a) A licensee shall report to the board in writing of the occurrence of any of the following events occurring on or after January 1, 1997, within 30 days of the date the licensee has knowledge of these events:

1. The conviction of the licensee of any of the following:

(A) A felony.

(B) Any crime related to the qualifications, functions or duties of a public accountant or certified public accountant, or to acts or activities in the course and scope of the practice of public accountancy.

1 (C) Any crime involving theft, embezzlement, misappropriation of funds or property,
2 breach of fiduciary responsibility, or the preparation, publication, or dissemination of false,
3 fraudulent, or materially misleading financial statements, reports, or information.

4 As used in this section, a conviction includes the initial plea, verdict, or finding of guilt,
5 pleas of no contest, or pronouncement of sentence by a trial court even though that conviction
6 may not be final or sentence actually imposed until appeals are exhausted.

7 ...”.

8 6. Code section 5106 provides that “a plea or verdict of guilty or a conviction following
9 a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The
10 board may order the certificate or permit suspended or revoked, or may decline to issue a
11 certificate or permit, when the time for appeal has elapsed, or the judgment of conviction has
12 been affirmed on appeal or when an order granting probation is made, suspending the imposition
13 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal
14 Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or
15 setting aside the verdict of guilty or dismissing the accusation, information or indictment.”

16 7. Code section 490 provides, in pertinent part, that “(a) in addition to any other action
17 that a board is permitted to take against a licensee, a board may suspend or revoke a license on
18 the ground that the licensee has been convicted of a crime, if the crime is substantially related to
19 the qualifications, functions, or duties of a business or profession for which the license was
20 issued.”

21 8. Code section 5109 provides that “the expiration, cancellation, forfeiture, or
22 suspension of a license, practice privilege, or other authority to practice public accountancy by
23 operation of law or by order or decision of the board or a court of law, or the voluntary surrender
24 of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with
25 any investigation of or action or disciplinary proceeding against the licensee, or to render a
26 decision suspending or revoking the license.”

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1 9. Section 3, subdivision (a)(1), title 16, California Code of Regulations, provides, in
2 pertinent part, that "each licensee shall notify the Board of any change in his or her address of
3 record within 30 days after the change."

4 10. Section 52, title 16, California Code of Regulations, subdivision (a), provides that "a
5 licensee shall respond to any inquiry by the Board or its appointed representatives within 30 days.
6 The response shall include making available all files, working papers and other documents
7 requested."

8 COST RECOVERY

9 11. Section 5107 of the Code provides, in pertinent part, that "(a) the executive officer of
10 the Board may request the administrative law judge, as part of the proposed decision in a
11 disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a
12 violation or violations of this chapter to pay to the board all reasonable costs of investigation and
13 prosecution of the case, including, but not limited to, attorney's fees. The board shall not recover
14 costs incurred at the administrative hearing."

15 FIRST CAUSE FOR DISCIPLINE

16 (Criminal Conviction)

17 12. Respondent is subject to disciplinary action under Code section 5100, subdivision (a)
18 in that on or about October 4, 2011, in *People v. Drew Evans*, Butte County Superior Court
19 Case No. CM035112, Respondent was convicted by his plea of no contest to embezzlement in
20 violation of Penal Code section 504, a felony, and being under the influence of
21 Methamphetamine, a controlled substance, in violation of Health & Safety Code section
22 11550(a), a misdemeanor. Each of the said crimes is substantially related to the qualifications,
23 functions or duties of a certified public accountant.

24 13. The circumstances of Respondent's crimes are that between on or about September 6
25 and September 9, 2011, Respondent, while an accountant for Acon Church, fraudulently
26 appropriated money or other personal property of a value exceeding \$400.00. On or about
27 September 9, 2011, Respondent unlawfully used and was under the influence of a controlled
28 substance, Methamphetamine.

DATED:

July 11, 2012

Patti Bowers

PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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